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OFFICE OF PETITIONS

In re Application of	:	
Stuart Thomas Coulson et al.	:	
Application No. 10/781,765	:	DECISION ON PETITION
Filed: February 20, 2004	:	UNDER 37 C.F.R. §1.181
Attorney Docket Number: 136499	:	
Title: FISH FRIENDLY HYDRAULIC	:	
TURBINE DISTRIBUTOR	:	

This is a decision on the petition filed March 23, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 6, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue and publication fees¹. Accordingly, the above-identified application became abandoned on January 7, 2006. A Notice of Abandonment was mailed on February 27, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement².

¹ See MPEP §710.02(e).

² See MPEP 711.03(c).

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that he has searched both the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is GRANTED. The holding of abandonment is WITHDRAWN.

The Technology Center will be notified of this decision. The Technology Center's support staff will mail a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability. The three month non-extendable time period for paying the issue fee will be set to run from the mailing date of the Notice.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
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